

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

FELIX CAMACHO,

Petitioner,

v.

ROBERT HERNANDEZ, Warden,

Respondent.

Civil No. 08-0016 BEN (LSP)

**ORDER:**

**(1) DENYING IN FORMA PAUPERIS  
APPLICATION AND DISMISSING  
CASE WITHOUT PREJUDICE [doc. no.  
5; and**

**(2) DENYING MOTION FOR  
RECONSIDERATION [doc. no. 6]**

On January 2, 2008, Petitioner, a state prisoner proceeding pro se, filed a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254. On January 8, 2008, the Court dismissed the petition because Petitioner had failed to either pay the \$5.00 filing fee or move to proceed in forma pauperis. (*See* Order dated Jan. 8, 2008 [doc. no.4].) Petitioner was given until March 14, 2008 to either pay the \$5.00 filing fee or submit adequate proof of his inability to pay the fee.

**MOTION TO PROCEED IN FORMA PAUPERIS**

On January 18, 2008, Petitioner filed a motion to proceed in forma pauperis and a trust account statement reflecting a \$18.20 balance in his prison trust account. The filing fee associated with this type of action is \$5.00. *See* 28 U.S.C. § 1914(a). Thus, it appears Petitioner can pay the requisite filing fee. Accordingly, the Court **DENIES** the request to proceed in forma pauperis, and **DISMISSES** the case without prejudice and with leave to amend.

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**MOTION FOR RECONSIDERATION**

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Petitioner has also filed a motion for reconsideration of the Court's January 8, 2008, dismissal order. Petitioner contends that he cannot comply with the Court's dismissal orders because the officials at Donovan State Prison refuse to give him trust account statements without a court order or case number. (*See* Mtn. for Reconsid. [doc. no. 6.] at 1-2; Pet. for Order for Cert. of Prison Trust Acct. [doc. no. 2] at 1.)

A motion for reconsideration is appropriate "if the district court (1) is presented with newly discovered evidence, (2) committed clear error or the initial decision was manifestly unjust, or (3) if there is an intervening change in controlling law." *School District No. 1J v. ACandS, Inc.*, 5 F.3d 1255, 1263 (9th Cir.1993) (citing *All Hawaii Tours, Corp. v. Polynesian Cultural Center*, 116 F.R.D. 645, 648 (D.Hawaii 1987), *rev'd on other grounds*, 855 F.2d 860 (9th Cir.1988)). Petitioner has not satisfied his burden. Despite his claims, Petitioner has succeeded in providing four sets of trust account statements to the Court with his current filing. (*See* Mot. to Proceed In Forma Pauperis [doc. no. 5] at Ex. A.) Moreover, Petitioner now has a current case number and two court orders directing that he provide the Court with current a trust account statement. (*See* Order dated Jan. 8, 2008 [doc. no. 4] and this Order.) Petitioner's motion does not contain any newly discovered evidence which alters this conclusion, there has not been an intervening change of controlling law, nor has the Court committed clear error or rendered a decision which is manifestly unjust. Accordingly, his motion for reconsideration is **DENIED**.

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**CONCLUSION**

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For the foregoing reasons, Petitioner's motion to proceed in forma pauperis is **DENIED** without prejudice. If Petitioner wishes to proceed with this case, he must, **no later than March 31, 2008**, either pay the \$5.00 filing fee or submit adequate proof of his inability to pay the fee.

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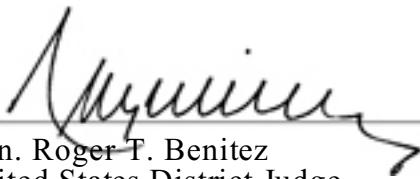
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1 **THE CLERK OF COURT IS DIRECTED TO MAIL PETITIONER A BLANK MOTION**  
2 **TO PROCEED IN FORMA PAUPERIS FORM.**

3 In addition, Petitioner's motion for reconsideration [doc. no. 6] is **DENIED.**

4 **IT IS SO ORDERED.**

5  
6 DATED: January 25, 2008

7   
8 Hon. Roger T. Benitez  
9 United States District Judge  
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